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ABSTRACT

The third edition of this guide on serving postsecondary students with disabilities reflects the language of the 1990 Americans with Disabilities Act (ADA) as well as that of Section 504 of the Rehabilitation Act of 1973. An introduction briefly describes both the ADA and Section 504 regulations, noting their close coordination. A section on persons to whom the law applies presents the definition of a handicapped person under Section 504 and an opinion of the Attorney General on the inclusion of alcoholics and drug addicts. The bulk of the guide considers how the law applies to various college admissions activities, including: (1) recruitment, (2) publications, (3) application forms and related topics, (4) admissions tests, (5) financial aid, (6) orientation, and (7) registration. Information provided for each area includes regulation, clarification, what is imperative, and suggested activities. A checklist for development of recruitment and admissions policies and practices by colleges and universities includes many of the "imperatives" and "suggested activities" outlined in the guide. An appendix lists three organizational resources for additional information. (DB)

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RECRUITMENT, ADMISSIONS, AND STUDENTS WITH DISABILITIES

A Guide for Compliance with Section 504 of the Rehabilitation Act of 1973 and Amendments of 1992 and the Americans with Disabilities Act of 1990

A publication of the HEATH Resource Center, American Council on Education and the American Association of Collegiate Registrars and Admissions Officers

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AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS

The American Association of Collegiate Registrars and Admissions Officers, founded in 1910, is a nonprofit, voluntary, professional education association of degree-granting postsecondary institutions, government agencies, private educational organizations, and education-oriented businesses in the United States and abroad. Its goal is to promote higher education and further the professional development of members working in admissions, enrollment management, financial aid, institutional research, records, and registration.

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AACRAO OFFICE

One Dupont Circle, NW, Suite 330
Washington, DC 20036-1171
(202) 293-9161 / FAX: (202) 872-8857

Recruitment, Admissions, and Students with Disabilities

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AACRAO
One Dupont Circle
Suite 330
Washington, DC 20036-1171
(202) 293-9161
FAX: (202) 872-8857
E-mail: BECRAFTW@AACRAO.NCHE.EDU

The HEATH Resource Center
One Dupont Circle, Suite 800
Washington, DC 20036-1193
(202) 939-9320 or (800) 544-3284
Both telephone numbers are Voice/TT
FAX: (202) 833-4760
Internet: HEATH@ACE.NCHE.EDU

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PREFACE

This third edition of a publication for AACRAO members on serving students with disabilities reflects the language of the 1990 Americans with Disabilities Act (ADA) as well as that of Section 504 of the Rehabilitation Act of 1973. It also continues AACRAO's long history of commitment to providing access to persons who have been underrepresented in our nation's colleges and universities.

Our thanks to HEATH, a project of the American Council on Education, for updating the efforts of the 1977-78 AACRAO Task Force that prepared the original document.

AACRAO members are encouraged to use the contents of this publication as a guide in determining institutional compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. It is one more way to help ensure that the vast riches of our nation's colleges and universities are available to ALL of our citizens.

Jeffery M. Tanner
President
American Association of Collegiate Registrars
and Admissions Officers

DISABILITY ON CAMPUS: ADA REAFFIRMS SECTION 504

by Rhona Hartman,
Director, HEATH Resource Center

Students with disabilities are taking their places on American campuses in increasing numbers. It no longer is unusual to see someone moving about in a wheelchair, striding along with the aid of a white cane or guide dog, or conversing with friends in sign language. At many postsecondary institutions, students with disabilities are considered a vital part of the diversity they promote.

Almost one in 11 fulltime, first-time freshmen enrolled in college in 1991 reported a disability, up from one in 38 in 1978. However, only a small portion of the students who report on surveys that they have disabilities actually request accommodations. Disability Support Service Providers (DSSP) on campuses tell us that 1-3% of enrolled students are likely to request services such as readers, interpreters, additional time to take exams or complete courses, or classes at accessible sites. At large state universities, it is not uncommon for 1,000 students to register at the disability service office and request some type of service. On smaller, more homogenous campuses, only one or two students, if any, may do so.

Students with disabilities have become a significant minority on many U.S. campuses for many reasons: improved educational preparation; enhanced technology; increased medical knowledge; expectations raised by families, advisors, and disabled students; and expanded support service programs. Underpinning all these reasons, however, are federal laws enacted in the mid-1970s. Most pertinent to colleges and universities are the regulations that implement Section 504 of the Rehabilitation Act of 1973, the law that prohibits recipients of federal funds from discriminating solely on the basis of handicap. The 504 Regs, as they are called in the field, were issued in the spring of 1977, after which institutions began to evaluate their campuses for physical and programmatic access required by law. Since that time, the American Council on Education has sponsored the HEATH Project to help college and university administrators understand postsecondary/disability issues, provide them with the technical assistance, and inform them about ways to eliminate discrimination.

The provision of disability support services is reported to increase student retention and thereby increase campus cost effectiveness. Such programs, at a minimum, help students receive access to campus programs and facilities. In many cases, however, DSSPs also coordinate extensive advocacy and training workshops for faculty, administration, staff, and students to ensure that policies and procedures, in all aspects of campus life—from recruitment and admissions to postgraduate employment or study—are free from discriminatory practices.

With the enactment of the Americans with Disabilities Act (ADA) in 1990 and the recent implementation of several of its titles, HEATH is frequently asked what the new legislation means for colleges and universities. Because ADA is based on regulations of Section 504, *colleges and universities must continue to comply with Section 504.* ADA, in effect, reaffirms the 504 Regs and extends the discrimination prohibition beyond the campus to businesses and organizations that do not receive federal funds. In addition, ADA details additional criteria that must be met in the areas of

employment, new construction or renovation, transportation, and telecommunications. ADA requires the appointment of an ADA coordinator and the development of a self-evaluation and transition plan to itemize the steps to take for compliance. This legislation not only brings new attention to disability issues, but is expected to be enforced more rigorously than the 504 Regs.

The most important decision that campus leaders can make with regard to disability issues is to embrace publicly the spirit of the laws and then designate a person, such as the DSSP, to be responsible for implementing the plans for compliance. ACE can help. The HEATH Resource Center (with funds from the U.S. Department of Education) has numerous publications available that address aspects of disability and postsecondary education, including "Section 504: The Law & Its Impact on Postsecondary Institutions" and the *Information from HEATH* newsletter. Single copies are free, and can be requested by mail or by telephone at (800) 544-3284 or (202) 939-9320 (both numbers are voice or TT). HEATH staff are also available by phone to discuss issues, suggest cost-effective solutions, and refer to knowledgeable resources close to home or at similar institutions.

ADA is the culmination of more than a decade of activism among disability advocates and reflects strong public opinion that society will benefit economically if people with disabilities are assimilated into the work force. Such thinking might explain why so many campuses have worked hard over the last decade to enable qualified students with disabilities to participate fully in their education and social programs.

Disability access also is prevalent on campuses because higher education leaders have sought to comply with the regulations even in the face of shrinking budgets. ACE Board Chair Hoke Smith speaks eloquently about this topic in the Summer 1992 issue of *Educational Record* magazine: "We are responsible for educating citizens and the future labor force. Those who attend our institutions will be responsible for administering our society's institutions and corporations. If we do not model the kind of corporate citizenship that acts responsibly in following the regulations designed by society to protect itself and its citizens from greed and excessive self-interest, who will?"

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INTRODUCTION

The passage by Congress of the Americans with Disabilities Act (ADA) in 1990 sent a loud and clear message to this nation that people with disabilities are to be accorded the dignity they deserve, the right to work and participate in education and public accommodations—whether they are funded publicly or privately—and shall be considered individuals first, thus challenging stereotypes and myths about people with disabilities. In other words, the ADA, especially as it pertains to colleges and universities, reflects what campuses have been relying on since 1977—the regulations implementing Section 504 of the Rehabilitation Act of 1973.

The ADA was, in fact, based on the 504 Regulations, and extends most of the 504 rules to cover entities which do not receive federal funds. For college and universities, however, Section 504 is alive and well, and still requires compliance. The ADA does not spell out details for colleges and universities but refers for specificity back to the 504 Regulations, especially Subpart E—Postsecondary Education. Thus, in order to provide guidance in recruitment and admission of students with disabilities, this book focuses on the 504 Regulations which enumerate what is necessary for colleges and universities to do in order not to discriminate solely on the basis of disability.

To comply with Section 504 of the Rehabilitation Act of 1973, which bars discrimination against qualified persons with disabilities in federally funded programs, institutions of postsecondary education must scrutinize and, in many cases, revise their policies. This guide is an effort to interpret Section 504 as it applies to admissions policies at postsecondary institutions, with specific attention to the eight activities within the admissions process: recruitment; publications; application forms, interviews, and recommendations; testing; financial aid; orientation; registration; and grievance procedures. The discussion of these activities includes citations from Education Department regulations 34 C.F.R. Part 104 that apply to each activity with interpretations of the citations, some imperatives for institutional policy, and examples of how an institution can carry out both the letter and the spirit of the law.

The 1992 Amendments to the Rehabilitation Act changed terminology to reflect the language of the Americans with Disabilities Act. According to an OCR Memorandum, the term disability replaces the word handicap throughout the 504 Regulations. At this writing, however, the 504 Regulations issued in 1980 by the U.S. Department of Education are the only ones in existence (and continue to use the term handicap), and these are quoted for reference in this text.

This guide assumes that the reader is interested in learning how to comply with Section 504. The scope of coverage of Section 504 was clarified by the Civil Rights Restoration Act. Institutions that enroll students who receive federal student aid clearly are "recipients" of federal assistance covered by Section 504. Accordingly, Section 504 covers institutions regardless of whether they have "open door," selective, or competitive admissions practices. Nondiscriminatory admissions policies are essential to ensure that federally assisted financial aid programs can be conducted on a nondiscriminatory basis. Admissions officers need to know that they are required to conduct their activities in compliance with Section 504.

There has been a significant increase in the number of students with disabilities applying for admission to postsecondary education. Moreover, there has been an increase in the diversity of disabilities applicants may have. For example, qualified stu-

dents with learning disabilities and psychiatric disabilities are applying in growing numbers. To conduct admissions and recruiting activities with an appropriate level of sensitivity, fairness, and common sense, institutions are strongly urged to form an advisory committee on disabilities. Such a committee, which should include one or more individuals with disabilities to represent students, disability service providers, faculty and staff, or consumer groups, can be valuable in anticipating problems and thinking through ways to achieve equal access. Throughout this guide there will be references to such an advisory committee. Note that the Section 504 Regulations require that persons with disabilities (or organizations representing them) be involved in the self-evaluation required of each recipient institution [34 C.F.R. 104 6(c)(1)(i)].

In addition, Section 504 provides for equal opportunity and access for qualified students to all recipient programs and activities after they are admitted. These activities, such as matriculation in a particular field of study or major, are beyond the scope of this guide. Nonetheless, institutions of postsecondary education should review and revise, when necessary, policies, practices, and procedures that affect the full participation of qualified students with disabilities. This is of particular concern when institutions implement enrollment management approaches designed to address both admission and attrition. In any case, institutional advisory committees are valuable campus resources in complying with both the letter and spirit of Section 504.

As noted above, the Rehabilitation Act of 1973 and its regulations use the term "handicapped." Since it is preferable to use "person with a disability," that term will be used throughout this publication, except where the statute or regulations are specifically quoted.

To Whom Does the Law Apply?

As noted in the introduction, *Recruitment, Admissions and Students with Disabilities* focuses on the 504 Regulations with the reminder to readers that the Americans with Disabilities Act reaffirms Section 504 in this area and refers back to Section 504 for specificity regarding colleges and universities.

Colleges and universities are required by the 504 regulations to ensure that qualified persons with disabilities are not denied admission or subjected to discrimination in admission to or recruitment for any federally assisted programs [34 C.F.R. 104.42(a)]. Institutions are not required to alter standards but must apply them equally to all applicants.

Fair admissions with respect to students with disabilities means judging them by their abilities rather than by their disabilities. More is required than simply ignoring prospective students' disabilities if the goals of the 504 Regulations are to be realized. Assistance must be available to students with disabilities so that all programs offered by an institution are as accessible to them as to students who do not have disabilities. As indicated in the sections that follow, many steps can be taken to ensure that students with disabilities are served fairly by the admissions process. Achieving equity depends not only on avoiding discrimination but also on removing subtle barriers confronted by people with disabilities in the process of admissions.

A clear understanding of whom Section 504 protects is critical to the discussion that follows:

> *A handicapped person is someone who . . .*
>
> 1. *has a physical or mental impairment that substantially limits one or more major life activities* [functions such as performing manual tasks, walking, seeing, hearing, speaking, breathing, or learning];
> 2. *has a record of physical or mental impairment; or*
> 3. *is regarded as having a substantially limiting physical or mental impairment, even though the impairment is insubstantial or a reflection of the attitudes of others or nonexistent* [34 C.F.R. 104.3(j)].

For example, in accordance with a formal opinion from the Attorney General of the United States, alcoholics and drug addicts are considered persons with disabilities if they are no longer engaged in the use of drugs or alcohol.

> *A qualified handicapped person is someone who meets the academic and technical standards required for admission to the recipient's educational program or activity. The term "technical standards" refers to all nonacademic criteria used for admission to and participation in a program or activity. In some instances, technical standards are a moot question. A blind person is not likely to study the visual arts, and a deaf person is not likely to study music. In all cases, the interest and determination of the individual and the feasibility of providing necessary supporting services need to be weighed carefully. A point that cannot be emphasized too strongly is that the statute and the regulation apply only to discrimination against qualified handicapped persons.*
>
> *Section 504 does not impose any obligation on colleges to admit and rehabilitate unqualified persons with disabilities. Nonetheless, since academic and technical qualifications are not always well defined, admission officers are*

advised to use common sense and good judgment in developing nondiscriminatory policies and to respond to the spirit of the law. Before students are denied admission to a program on grounds that they are not technically qualified, those requirements should be carefully studied and documented to determine if they are in fact necessary to pass the courses in that program [34 C.F.R. 104.3(k)].

Traditional concepts of what a person with a disability can and cannot do are frequently based on misinformation and stereotypes. In addition, it is important to recognize that each person who has a disability is different in the severity of the disability and coping skills developed. Even the traditional sources of information about the job abilities of persons with disabilities are often wrong. Misconceptions about the abilities of people with disabilities are pervasive, and no one group or agency can be uncritically relied on as an authority—not even provider groups, consumer groups, or vocational rehabilitation agencies. Even being well acquainted with a particular disability, such as deafness, does not mean that one knows all that is necessary about the needs of each individual.

Institutional advisory committees may facilitate dialogue between disability service providers and admissions personnel. Such dialogue may serve to clarify academic and technical standards which may distinguish qualified applicants with disabilities from unqualified applicants with disabilities. Moreover, advisory committees may create a mechanism for refining policies, practices, and procedures.

How Does the Law Apply to Admissions Activities?

As noted in the introduction, *Recruitment, Admissions and Students with Disabilities* focuses on the 504 Regulations with the reminder to readers that the Americans with Disabilities Act reaffirms Section 504 in this area and refers back to Section 504 for specificity regarding colleges and universities.

Recruitment

Regulation

Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies [34 C.F.R. 104.42 (a)].

[A recipient] *may not apply limitations upon the number or proportion of handicapped persons who may be admitted* [34 C.F.R. 104.42(b)(1)].

Clarification

Recruitment in this context means all activities by university staff, faculty, students, alumni, and others that are intended to influence students' desires to attend a given institution. This includes personal contact, media presentations, and printed materials posted or sent to prospective students. Not applying limitations on the number or proportion of persons with disabilities admitted means just that—institutions may not impose such limits.

Imperative

1. *Colleges and universities are prohibited from making preadmission inquiries as to whether a prospective student is a handicapped person* [34 C.F.R. 104.42(b)(4)] [See section on Application Forms].

2. An institution's recruitment activities must be accessible to persons with disabilities.

3. It is the institution's responsibility to provide services, such as interpreters for people who are deaf and who request them at all recruitment activities or to make certain that those who conduct recruitment activities for the institution have made arrangements to provide such services to students who request them.

4. Institutions may not set limits on how many persons with disabilities they will admit.

Suggested Activities

- In planning special service needs for large recruitment activities, an institution should rely on its advisory committee for suggestions regarding such items as the number and availability of interpreters for the deaf, the accessibility of locations being considered for recruitment fairs, and the availability of volunteers to assist persons with disabilities who attend the fairs. When an institution participates in a fair sponsored by another institution or community group, it should make sure that the sponsoring party has made arrangements to help persons with disabilities access the activities.

- Although the regulation does not require special recruitment efforts for students with disabilities, such students should have the same opportunities to learn about an institution and to enroll in it as persons who do not have disabilities. In order to provide equal opportunities, an institution may wish to expand its recruitment activities to include schools and special classes attended by students with disabilities. Recruitment information should be available in forms that are suitable for persons with impaired sensory functions. For example, material can be made available in Braille, on audiotape, or by providing reader services for students unable to read standard print. Advice on providing such services should be sought from persons with disabilities and disability consumer groups.

- Training sessions can be provided to make recruitment personnel more aware of any services needed by persons with disabilities. The admissions advisory committee can be especially helpful here.

- A brochure outlining institutional policies and describing services available to people with disabilities can be prepared and made available to alumni, among others, who serve as recruiters and interviewers for the institution. Here again, the advisory committee will be helpful.

PUBLICATIONS

Regulation

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants . . . it shall include in those materials or publications a statement of [compliance with Section 504]. *A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications* [34 C.F.R. 104.8(b)].

Clarification

Publications covered by the regulation include catalogs and bulletins, promotional literature, department brochures, application and admissions forms, student handbooks, information on pro-

grams and services for students with disabilities, orientation materials, and any other university-sponsored information, published or broadcast, that relates directly or indirectly to recruitment or admissions.

If an institution currently has a policy statement that prohibits discrimination on other grounds, it can add "disability" to the categories protected by that statement. In all publications, the compliance statement should be prominently displayed.

For publications already in print, compliance statements can be added by using a printed insert or a rubber stamp. Requests for information which are no longer allowed (see "Application Forms") can be blacked out.

It should be noted, however, that U.S. Postal Service regulations state that any enclosures with or attachments to second class mail will require additional postage. It may be possible to alter publications with a rubber stamp, eliminating the need for additional postage. Institutions should check with local postal authorities to determine whether the proposed additions or alterations conform to postal regulations.

Imperative

1. All college and university publications relating directly or indirectly to recruitment or admissions must demonstrate compliance with the 504 Regulation. Any publications that are not in compliance must be revised.

2. All college and university publications relating directly or indirectly to recruitment or admissions must contain a compliance statement.

Suggested Activities

- Here is an acceptable compliance statement for existing publications: "_____ College does not discriminate against qualified individuals with disabilities in admissions or in access to programs."

- For new publications, the following statement can serve as a model: "The University of _____ does not discriminate against qualified individuals with disabilities in the recruitment and admission of students, the recruitment and employment of faculty and staff, and the operation of any of its programs and activities, as specified by applicable federal laws and regulations. The designated coordinator for university compliance with Section 504 of the Rehabilitation Act of 1973 is _____. The designated coordinator for . . . ADA is _____."

- In catalogs, student handbooks, brochures, and other general information publications, include students with disabilities together with students without disabilities in photographs that show a variety of campus activities.

- Instead of including all the information about services for students with disabilities in one section of the student handbook, provide each item of information in its logical context—housing, health services, transportation, and financial aid. The goal is to integrate, not segregate. To help students locate the information, include a statement on disability support services in the introductory material, listing the sections and page numbers where the information can be found. Cite the information in the index as well (as suggested above).

- If the student handbook contains information about things to do and places to go in the local community—restaurants, bars, libraries, stores, recreation—indicate which are accessible to persons with disabilities.

- An additional publication may be considered to describe services available on campus, in the community, or through state or national programs for students with disabilities. This publication could be prepared with the assistance of the advisory committee, local consumer groups, representatives of the state department of vocational rehabilitation, and national organizations of and for persons with disabilities.

- The advisory committee can be helpful in reviewing all publications and assisting in the development of materials addressing the needs of students who have disabilities.

Application Forms and Related Topics

Regulation

In administering its admissions policies, a recipient to which this subpart applies . . .

1. *may not apply limitations upon the number or proportion of handicapped persons who may be admitted . . . .*

2. *except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation* [34 C.F.R. 104.42(b)(4)].

Preadmission inquiry exception. *When a recipient is taking remedial action to correct the efforts of past discrimination . . . or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity . . . the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped, provided that . . .*

1. *the recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used, that information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and*

2. *the recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part* [34 C.F.R. 104.42(c)].

Clarification

With one exception, this part of the regulation prohibits any form of preadmission inquiry about applicants' possible disabilities. The exception is when an institution *"is taking remedial action to correct the effects of past discrimination . . . or when it is taking voluntary actions to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity."* Even in these cases responses to preadmission inquiries must be voluntary.

A distinction needs to be made between "remedial" and "voluntary" action. If a court, the Office for Civil Rights, or an authorized agency finds that an institution has discriminated against qualified persons with disabilities, the institution will be required to take remedial action to overcome the effects of the discrimination. Voluntary action is taking positive steps to overcome the effects of any conditions that have resulted in limited participation by persons with disabilities in the institution's programs or activities. Voluntary action does not involve any finding or implication that the institution has discriminated against qualified persons with disabilities.

Preadmission inquiries made as part of remedial or voluntary action to increase the participation of people with specific learning disabilities may alert applicants that they may submit additional information to ensure that their aptitude or achievement level is accurately represented. Such inquiries should clearly state that additional information, such as an applicant's psychoeducational evaluation, may be voluntarily submitted to a learning disability specialist for interpretation with respect to that applicant's qualifications for admission.

Note also that, after admission, inquiries can be made about disabilities that may require accommodation as long as the information is supplied on a confidential basis. Such confidential information should be separated from the admissions process and maintained by the appropriate institutional of-

fice that provides the service needed by the student—for example, the disability support services office, the learning disabilities program or the health unit.

Imperative

Except as noted above, colleges and universities are prohibited from making any kind of preadmission inquiry as to whether an applicant has a disability. This prohibition applies to every form an applicant is asked to submit to the institution in order to be considered for admission—psychoeducational evaluations, medical reports, housing forms, financial aid applications, and any other preadmission information.

Suggested Activities

- An institution taking remedial or voluntary action may indicate on its form that, as part of that action, applicants with disabilities may provide additional information that they wish to be considered as part of their application. The form must state to whom the information will be voluntarily sent, and ensure that the information will be confidentially treated and used in connection with efforts to increase the participation of people with disabilities.

- A notice of compliance may be affixed to existing application forms rather than having all such forms reprinted. However, adding a compliance statement does not remove the responsibility to eliminate all questions prohibited by the 504 Regulation. (See "Publications," concerning the U.S. postal regulations for additions to second class mail.)

- If an interview is required of all prospective students, and not just applicants with disabilities, the interviewer may inform the applicant of any available services on campus that may benefit or be of interest to the applicant. However, it is the responsibility of the interviewer or admissions officer not to use the information about the applicant's disability to influence decisions about admission.

- Medical information can be solicited after an applicant has been admitted if the medical information obtained is not used for the purpose of excluding or disqualifying anyone who is qualified to participate in any of the institution's programs or activities. A student's disability should not be equated with a health condition that could serve as a legitimate basis for excluding any student from a program or activity.

- In institutions where admissions and registration occur simultaneously and the application form is not used to make admissions or rejection decisions, a statement, such as the following, may be circulated to all registrants: "Federal law prohibits us from making preadmission inquiry about disabilities. Any information received regarding disabilities will not adversely affect admissions decisions. If you require special services because of a disability, you should notify (name of person or office). This voluntary self-identification allows (name of college) to prepare appropriate support services to facilitate your learning. This information will be kept in strict confidence and has no effect on your admission to this college."

- Note that where prior notice is essential to the provision of services, and the student fails to provide the necessary information, no institution is obligated to provide the service at the time of entrance to the institution. However, this does not remove the institution's responsibility to provide such services in the future.

Admissions Tests

Regulation

In administering its admission policies, a recipient to which this subpart applies . . .

2. may not make use of any test or criterion for admission that has a disproportionately adverse effect on handicapped persons or any class of handicapped persons unless

(i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and

(ii) alternate tests or criteria that have a less disproportionate adverse effect are not shown by the Assistant Secretary to be available;

3. shall assure itself that

(i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure);

(ii) admissions tests that are designed for persons with impaired sensory, manual or speaking skills are offered as often and in as timely a manner as are other admission tests; and

(iii) admission tests are administered in facilities that, on the whole, are accessible to handicapped persons . . . [34 C.F.R. 104.42(b)].

Validity studies. For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores [104.42(b)].

Discussion

Since the last edition of this guide, progress has been made with respect to admissions tests. Institutions may want to contact the Educational Testing Service and the American College Testing Program for information regarding the comparability of scores for students with disabilities and students without disabilities. Postsecondary grades based on admissions test scores, gradepoint averages, or combinations of test scores and gradepoint averages may be less predictable for students with disabilities. The grades achieved by students with disabilities may be underpredicted or overpredicted. Students with disabilities who present low test scores and grades may actually exceed what is predicted (underprediction) while those who present high test scores and grades may not do as well as what is predicted (overprediction). The degree of over or underprediction may reflect the educational history of applicants with disabilities. The educational histories of applicants with and without disabilities may not be comparable, since interpretations of the educational histories of applicants with disabilities may be influenced by misinformation and stereotypes. Accordingly, reviews and interpretations of educational histories of applicants with disabilities should be done by individuals with appropriate disability service expertise.

Additionally, personal qualities, such as motivation and persistence, if considered in the admissions process, should be examined as to their effectiveness in predicting the ultimate success of applicants with disabilities. Quantitative data, such as test scores and grades, as well as qualitative data, such as personal qualities, should be subjected to periodic validity studies against the criterion of overall success in the particular education program. Therefore, although the Educational Testing Service and the American College Testing Program may be consulted regarding the comparability of admissions test scores in general, Section 504 requires that the validity of test score usage at the institutional level be examined on a periodic basis. Record keeping and data collection systems are prerequisites for such validity studies. Again, advisory committees consisting of admissions and disability service personnel are implied.

- The Office of Civil Rights (OCR) will not find an institution out of compliance if that institution requires the submission of test scores by applicants, even though there is a possibility that these tests do not reflect an applicant's ability. However, to ensure that it is in compli-

ance, the institution must guarantee that admissions decisions take into account other factors such as high school grades, recommendations, etc. This policy is, in fact, recommended by the major testing services.

- Until such time as a more viable policy can be worked out, the testing services will be allowed to continue to notify their users that tests were taken under nonstandard conditions. This is an interim policy only. OCR recognizes that this procedure may violate the prohibition against preadmissions inquiry; it will be allowed only until the interim policy can be modified. OCR suggests that recipients be prepared to modify their admissions requirements in the future. Until OCR clarifies the reporting issue, the American Association of Collegiate Registrars and Admissions Officers (AACRAO) recommends that the interim policy be followed.

- Wherever information is given regarding tests required for admission, an institution must include a statement that *special testing* arrangements can be made for applicants with disabilities who are unable to take the required tests. Both the Educational Testing Service and the American College Testing Program have brochures describing special testing arrangements. Admissions personnel should review and evaluate the suggestions made in these brochures, in preparation for developing other testing arrangements in the future.

Financial Aid

Regulation

In providing financial assistance to a qualified handicapped person, a recipient to which this subpart applies may not . . .

(i) on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or

(ii) assist any entity or person that provides assistance to any of the recipients' students in a manner that discriminates against qualified handicapped persons on the basis of a handicap.

A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of the handicap only if the overall effect of the award of scholarships, fellowship, and other forms of financial assistance is not discriminatory on the basis of the handicap
[34 C.F.R. 104.46(a)].

Clarification

This regulation requires that equal opportunities for financial assistance be made available to qualified students with disabilities. It is not discriminatory to deny an athletic scholarship to a person who has a disability if the disability renders the person unable to perform the skills necessary to qualify for the award. The rationale is applied equally to scholarships awarded on the basis of academic achievement. Qualified students should be selected for awards on the basis of the criteria for the award without regard to physical or mental disability.

Institutions may continue to administer discriminatory bequests, trusts, scholarship, and related awards that have been established under wills and similar legal instruments only if the overall effect of the institution's financial assistance program is not discriminatory on the basis of disability. (This is similar to the Title IX requirement with respect to awards restricted by sex.)

Imperative

1. An institution must take all necessary steps to see that qualified students with disabilities have the same opportunities as their nondisabled peers to learn about and re-

ceive financial assistance through award programs administered by the institution.

2. All institutional publications that relate to financial aid, including financial aid publications themselves, must contain a statement of compliance with Section 504.

3. Institutions must make sure that all services of the financial aid office are accessible to and usable by students with disabilities.

Suggested Activities

- Students with disabilities should be aware of all available financial assistance programs. It should not be assumed that all students who have disabilities will receive funding from the state department of vocational rehabilitation (DVR). These funds are not available to all students with disabilities. For example, in most states DVR funds are not available for graduate study or for educational programs that are not directly related to vocational objectives approved by DVR. Hence, students with disabilities, as well as those without disabilities, need to be informed of all possible sources of financial aid.

- Brochures, pamphlets, and other materials on vocational rehabilitation programs in the states of resident and nonresident students should be made available to all students, with distinctions made between those vocational rehabilitation benefits related to income and those not related to income. Students with disabilities should also be given information about social security benefits, public assistance, veterans' benefits, and community assistance programs.

- To be certain students get the full benefit of state vocational rehabilitation funds, the institution's financial aid office should maintain a good working relationship with the directors of state offices. An institution should not wait until students with disabilities are actually in attendance before getting in touch with state offices. An effective working relationship can ensure that most adaptive aids needed by students with disabilities who are DVR clients can be supplied.

- To ensure that financial and disability status is not used to discriminate against qualified applicants, questions regarding the need for financial aid should be removed from applications for admission. Additionally, financial aid forms and applications for admission should be separate and submitted to separate offices.

ORIENTATION

Regulation

No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any . . . extracurricular or other postsecondary education program or activity to which this subpart applies . . . . A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate [34 C.F.R. 104.43].

Clarification

The orientation process includes campus visits; orientation materials, such as the student handbook and other publications distributed to new students; and any programs to acquaint students with the institution.

Imperative

Student orientation programs must be physically accessible to all and services, such as interpreters for the deaf, must be available if needed.

Suggested Activities

- Orientation staff should design programs that encourage students with disabilities to attend general student orientation programs.
- The institution may arrange a special orientation for students with disabilities, but such an orientation should be in addition to, not in place of, general orientation. An orientation session specifically designed for students with disabilities could take up matters of particular concern to these students—mobility, access to facilities, and where and how to get any special services needed. Participation in special orientations *must be optional*, not required.
- For suggestions about printed materials used in orientation, see "Publications."
- Letters inviting students to orientation activities should indicate that services will be available for students with disabilities.

REGISTRATION

Regulation

No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any academic . . . counseling, financial aid or other extracurricular or postsecondary education program or activity to which this subpart applies [34 C.F.R. 104.43(a)].

Clarification

For students with disabilities, the difficulties that frequently accompany registration can be compounded by mobility problems or sensory impairments. Thus, the registration process is a critical juncture where steps must be taken to ensure students with disabilities are not excluded from programs for which they are qualified.

Imperative

Provisions must be made so that students with disabilities can register for classes as conveniently and efficiently as students without disabilities.

Suggested Activities

- To eliminate obstacles to people with disabilities, an institution's registration process should be reviewed by an advisory committee that includes students with disabilities and the institution's compliance officer.
- Institutions should have available at the registration site the services typically needed by people with disabilities—for example, interpreters for the deaf. This is particularly necessary in the case of institutions with open admissions. Because these institutions conduct admissions and registration simultaneously, they cannot predict the needs of people with disabilities who come to register. The advisory committee mentioned above can help determine which services should be available immediately.
- To meet problems that arise despite the best efforts to eliminate them, a "back-up person" should be on hand at all times. This person should have the expertise and authority to resolve unanticipated problems. The individual might be an admissions officer, a student services representative, or an experienced student.
- Persons responsible for registration must know which classrooms and buildings are physically accessible to students in wheelchairs who need access to all classes for which they register.

Some Final Thoughts

This publication urges colleges and universities to continue to recognize the civil rights of persons with disabilities. As stated at the outset, the 504 Regulations represent an attempt to provide individuals with disabilities the rights and privileges that are taken for granted by others. The ADA reaffirms Section 504. To bring to an end the discrimination experienced by people with disabilities, institutions must remove barriers to participation in their programs by persons with disabilities.

The process begins with relating to students with disabilities on a person-to-person basis rather than on a person-to-disability basis. This attitude should be reflected by faculty, staff, and students. Faculty seminars and workshops should be developed to lessen the discomfort and uneasiness felt by faculty members as they encounter students with disabilities. These seminars should not only stress a change in attitude; they should also point out that Section 504 and ADA require that the civil rights of persons with disabilities be respected. Compliance is not only a moral responsibility; it is a matter of obeying the law. Such seminars should include faculty with disabilities, staff, and students. Similar programs should be held for administrative personnel.

Compliance with 504 must be more than the establishment of an office of special services for students with disabilities. In fact, establishing such an office may not be the most effective way to accommodate students with disabilities or comply with Section 504. A more effective approach is for admissions officers to adopt a leadership role and to collaborate with disability service providers in striving to promote the overall success of students with disabilities at their institutions. Above all, principles of common sense should guide the institution in developing its policies to comply with 504. In this way, both the letter and the spirit of Section 504 will be served.

A Checklist for Colleges and Universities

This checklist includes many of the "imperatives" and "suggested activities" outlined in this guide. It is intended to help recruitment and admissions personnel review institutional policies and practices regarding applicants with disabilities.

- ☐ Has an advisory committee been appointed that includes students who have disabilities and disability service providers? Has it been asked for advice and counsel on the many requirements and suggestions outlined in this guide?
- ☐ Have limits placed on the number of qualified students with disabilities who could be admitted been removed?
- ☐ Have all recruitment procedures been reviewed for possible discriminatory activities?
- ☐ Do recruitment activities reach people with disabilities as effectively as they reach those without disabilities?
- ☐ Are all recruitment activities held in accessible facilities?
- ☐ Have all staff, students, and alumni who participate in recruitment activities been informed of nondiscrimination requirements?
- ☐ Is a nondiscrimination statement and identification of the Section 504 coordinator included in all publications related to recruitment, admission, and financial aid (i.e., forms, advertisements, catalogs, handbooks, and brochures)?
- ☐ Are all available services for students with disabilities listed in the appropriate places in campus publications—housing in the housing section, financial aid in the financial aid section, etc.?
- ☐ Have all publications and media releases been checked for material that discriminates against students with disabilities and has such material been removed?
- ☐ Do all application forms include a nondiscrimination statement?
- ☐ Have all inquiries regarding disability status been removed from preadmission applications and other forms submitted during the admission process?
- ☐ Have all housing, health, and other forms been reviewed for questions that elicit information that could reveal a disability?
- ☐ In postadmission inquiries, is it made clear that providing information concerning a disability is voluntary and will be kept confidential?
- ☐ Have all admissions procedures been removed which were unique to applicants with disabilities and not required of other applicants? (This does not include provision of services, such as interpreters for students who are deaf, which would allow them to participate in activities readily available to other students.)
- ☐ In preadmission inquiries taken as part of remedial or voluntary action, is it made clear that additional information concerning a disability, which is voluntarily supplied, should be submit-

ted to the appropriate disability service office for interpretation?

- ☐ If interviews are required, is the interview format free of questions that would require students to reveal information about disabilities?
- ☐ If tests are required for admission, has information been made available to all applicants concerning special testing accommodations for persons with disabilities?
- ☐ Is information on financial assistance opportunities provided to students with disabilities?
- ☐ Are all orientation services required by students with disabilities provided in an integrated setting and with the necessary services?
- ☐ Are all registration areas accessible by wheelchair? If not, have provisions been made to conduct registration in an accessible location for students in wheelchairs?
- ☐ Are services (for example, interpreters, readers, accessible facilities, or assistants) available to students with disabilities to ensure equal access to registration?

Appendix: Additional Sources of Information

American Association of Collegiate Registrars and Admissions Officers (AACRAO)

One Dupont Circle, Suite 330
Washington, DC 20036-1171
(202) 293-9161
FAX: (202) 872-8857
Internet: BECRAFTW@AACRAO.NCHE.EDU

The American Association of Collegiate Registrars and Admissions Officers, founded in 1910, is a non-profit, voluntary professional education association of degree-granting postsecondary institutions, government agencies and higher education coordinating boards, private educational organizations, and education-oriented businesses. Its goal is to promote higher education and further the professional development of members working in admissions, enrollment management, financial aid, institutional research, records, and registration.

Association on Higher Education and Disability (AHEAD)

PO Box 21192
Columbus, OH 43221-0192
Voice/TT: (614) 488-4972
FAX: (614) 488-1174
Internet: SWEVANS@MAGNUS.ACS.OHIO STATE.EDU

AHEAD is an international, multicultural organization of professionals committed to full participation in higher education for persons with disabilities. The Association has numerous training programs, workshops, publications, and conferences. Members are experienced campus disability support service providers. Recent publications include *Testing Accommodations for Students with Disabilities*, *College Students with Learning Disabilities* (brochure), *Subpart E: The Impact of Section 504 on Postsecondary Education*, and *Title by Title: The ADA's Impact on Postsecondary Education*. Contact AHEAD for price and ordering information.

HEATH Resource Center American Council on Education

One Dupont Circle, Suite 800
Washington, DC 20036-1193
(202) 939-9320 or (800) 544-3284
Both telephone numbers are Voice/TT
FAX: (202) 833-4760
Internet: HEATH@ACE.NCHE.EDU

The HEATH Resource Center is the national clearinghouse on postsecondary education for individuals with disabilities. HEATH collects and disseminates information nationally about disability issues in postsecondary education. Maintenance of the HEATH Campus Resource File and participation in numerous national conferences about post high school education contribute to the ability of staff to respond to telephone, mail, FAX, or Internet inquiries. Staff are available for telephone consultation from 9 a.m. - 5 p.m. Eastern time. Recent publications, single copies of which are free, include *Information from HEATH* (newsletter), *National Resources for Adults with Learning Disabilities*, *HEATH Resource Directory*, *1994 Financial Aid for Students with Disabilities*, *Section 504: The Law & Its Impact on Postsecondary Education*, as well as Resource Papers on disability-specific topics.

NOTES

AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS

One Dupont Circle, NW
Suite 330
Washington, DC 20036-1171

(202) 293-9161
FAX: (202) 872-8857

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